Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author:	Lowenthal	Analyst:	Angela Raygoza	Bill Number:	SB 1247
Related Bills:	See Legislative History	Telephone:	845-7814	Introduced Date:	February 15, 2008
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Low-Income Housing Credit/Includes Qualified Farmworker Housing Credit/Repeal Farmworker Housing Assistance Program And Specified Credits

SUMMARY

This bill would consolidate the farmworker housing tax credit program into the state low-income housing tax credit.

PURPOSE OF THE BILL

According to the author's office, this bill would streamline the process of allocating the farmworker housing credit while increasing the pool of affordable housing investors and the demand for state credits.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2009, and operative for taxable years beginning on or after January 1, 2009.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Current federal law allows a tax credit for the costs of constructing, rehabilitating, or acquiring low-income housing. The credit amount varies depending on several factors, including when the housing was placed in service and whether it was federally subsidized. The credit is claimed over ten years. The California Tax Credit Allocation Committee (TCAC) has the authority to oversee the process and allocate the federal credit.

Board Position:			Department Director	Date
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Current state law generally conforms to federal law with respect to the low-income housing credit, except that the state low-income housing tax credit is claimed over four taxable years, is limited to projects located in California, and is allocated in amounts equal to the sum of all the following:

- For taxable years ending 2002 and thereafter, $70 million increased by the percentage of the Consumer Price Index, for the preceding calendar year,
- The unused housing credit ceiling, if any, for the preceding calendar years, and
- The amount of housing credit ceiling returned in the calendar year.

Current state tax law allows a farmworker housing credit. The credit amount may be up to 50% of the qualified amount of costs paid or incurred for construction or rehabilitation of qualified farmworker housing in California. The housing must satisfy the requirements of the Farmworker Housing Assistance Program for the costs to be eligible for the credit.

Current state tax law allows a separate credit to commercial lenders equal to 50% of the foregone interest income on loans used to finance eligible expenditures for rehabilitating or constructing qualified farmworker housing. A taxpayer claiming the farmworker housing credit or the credit for foregone interest is required to do the following: (1) obtain certification of the credit allocated from the TCAC, (2) retain a copy of the certification, and (3) provide the certification to the Franchise Tax Board upon request.

The aggregate amount of credits granted for both personal income and corporate taxpayers for building or rehabilitating farmworker housing and for banks and financial corporations for foregone interest on farmworker housing loans may not exceed $500,000 for any calendar year. This $500,000 limitation may be increased by an amount equal to any unallocated credits from preceding calendar years.

THIS BILL

This bill would do the following:

- Repeal the farmworker housing assistance program from the Health and Safety Code.
- Add new language to the Health and Safety Code requiring the farmworker housing credit to be allocated in the same manner as the state low-income housing tax credit.
- Increase the maximum amount of low-income housing credit that may be allocated by $500,000, which is limited to low-income housing projects for farmworker households.

While this bill would repeal the California farmworker housing credit, it would add additional credit amounts to the California low-income housing credit that can be allocated for farmworker housing. Therefore, every farmworker housing project in the state would be required to have a federal low-income housing credit allocated to it.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department’s programs and operations.

LEGISLATIVE HISTORY

SB 713 (Lowenthal, 2007/2008) is similar to this bill except it would have allowed the state low-income housing credit to be distributed among partners pursuant to a partnership agreement, even if the allocation of that credit did not have substantial economic effect. This bill also would have consolidated the farmworker housing tax credit program into the state low-income housing tax credit. SB 713 failed to pass out of the Assembly Appropriations Committee.

AB 339 (Aghazarian, 2003/2004) would have decreased the period for which the farmworker housing credit is allowable and allow any taxpayer to be eligible for the credit regardless of actual ownership. AB 339 failed to pass out of the Assembly Revenue and Taxation Committee.

AB 1811 (Stats. 2000, Ch. 311) made various changes to the Farmworker Housing Assistance Program.

AB 1903 (Lowenthal, 1999/2000) is similar to this bill except it would have allowed the state low-income housing credit to be distributed among partners pursuant to a partnership agreement, even if the allocation of that credit did not have substantial economic effect. Governor Davis vetoed this bill on September 30, 2000, stating, "…I am concerned about the possible abuses that may arise. Specifically, since this bill would allow a credit to be severed from the economic interest each partner has in the profits and losses of the project, it could lead to allocations for tax shelter purposes."

OTHER STATES' INFORMATION

Florida, Illinois, Massachusetts, Michigan, Minnesota, and *New York* laws do not provide a credit comparable to the credit allowed by this bill. The laws of these states were reviewed because their tax laws are similar to California's income tax laws.

FISCAL IMPACT

This bill would not impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue impact:

Revenue Analysis -SB 1247 as Introduced February 20, 2008 Effective On or After January 1, 2009 Enactment Assumed After June 30, 2008 ($ in Millions)			
Fiscal Year	2009/2010	2010/2011	2011/2012
Revenue Loss	No impact	-$0.7	-$1.4

Any possible changes in employment, personal income, or gross state product that might result from this bill are not taken into account.

Revenue Discussion

The revenue impact of this bill depends on the projected absorption of the available unused farmworker housing credits into the low-income housing credit program and, to a lesser extent, whether incorporating the current farmworker housing credit program into the low-income housing credit program will result in additional low-income housing that serves farmworkers and their households exclusively.

Low-Income Housing

This provision would unlock an estimated $4.7 million of carryover credits available under current farmworker housing tax credit statutes. This assumes the “one-time” allocation of available credits into the aggregate low-income housing credit program would not limit the awarding of this carryover of credits to projects that are not exclusively restricted to farmworker households. Due to the large historical demand for low-income housing credits, it is expected that the proposed one-time increase would be fully allocated in response to future low-income housing tax credit applications beginning on and after January 1, 2009.

Given the existing credit allocation structure, it is assumed that on average 28% of total credits vouchered are claimed in the first tax year of the four-year credit allocation period. This yields a potential revenue loss for newly vouchered low-income housing tax credits of approximately $1.3 million ($4.7 million x 0.28) that could be applied against tax liabilities starting with the 2011 taxable year. Calendar year estimates have been adjusted to reflect fiscal year cash flows. For example, the revenue losses for the new credit allocations would begin in fiscal year 2010/2011 as affected taxpayers reduce the amount of their estimated tax payments accordingly.

Farmworker Housing

Historical farmworker housing credit program data indicates that fewer than ten taxpayers claim a total of less than $10,000 in tax credits in any given year. Because of the historically low credit usage, even with a substantial increase in credits for housing used exclusively for farmworkers, it is expected that the revenue impact of this provision would be less than $150,000 starting in fiscal year 2010/2011. This estimate assumes a two-year delay from credit application to final award and use of the credit.

The table above reflects the combined revenue impact for both provisions of this bill.

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